

**BRIGHAM CITY PLANNING COMMISSION MEETING
TUESDAY, JULY 03, 2007 – 6:30 PM
BRIGHAM CITY COUNCIL CHAMBERS**

| | | |
|-------------|-----------------|--------------------------|
| PRESENT: | Steve Hill | City Council Liaison |
| | Kevin Lane | Chairman |
| | Reese Nielsen | Vice-Chairman |
| | Joan Peterson | Commissioner |
| | Roger Handy | Alternate |
| | Kathy Philpot | Alternate |
| CITY STAFF: | Mark Teuscher | City Planner |
| | Eliza McGaha | Administrative Secretary |
| EXCUSED: | Miles Brown | Commissioner |
| | David Hipp | Commissioner |
| | Bill McGaha | Commissioner |
| | Barbara Poelman | Commissioner |
| | Lynda Berry | Alternate |

AGENDA

WORK SESSION – AGENDA REVIEW

REGULAR MEETING

PLEDGE OF ALLEGIANCE

APPROVAL OF WORK SESSION MINUTES AND REGULAR MEETING MINUTES

APPLICATION #2937 / PUBLIC HEARING / PRELIMINARY PLAT – NORTH POINT SUBDIVISION / 905 NORTH HIGHWAY 38 / SWM SERVICES

PUBLIC INPUT:

DISCUSSION:

REGULAR MEETING

Chairman Lane opened the regular meeting at 6:30 p.m. Commissioner Nielsen led the Pledge of Allegiance.

APPROVAL OF WORK SESSION MINUTES AND REGULAR MEETING MINUTES

MOTION: A motion was made by Commissioner Nielsen to approve the work session minutes of the March 20, 2007 meeting. The motion was seconded by Commissioner Peterson and passed unanimously.

On page three of the regular meeting minutes, line 25, the word ‘not’ should be changed to the word ‘no’.

MOTION: A motion was made by Commissioner Peterson to approve the regular meeting minutes of the March 20, 2007 meeting as amended. The motion was seconded by Commissioner Nielsen and passed unanimously.

MOTION: A motion was made by Roger Handy to open the public hearing for application #2937. The motion was seconded by Commissioner Peterson and passed unanimously.

Steve Hill, Brigham City Councilmember, came forward. He stated his opposition to the subdivision, in regards to the lack of adequate accesses, in relation to the anticipated significant increase in traffic. One of his biggest concerns was that 500 West is a direct line to Discovery Elementary and with only two entrances and exits into the proposed subdivision that would increase the traffic flow in front of Discovery Elementary, possibly creating a safety hazard for the children. Mr. Hill also stated his concern about the number of cul-de-sacs in the proposed subdivision. As the City Council representative for the City Streets Department, he stated that cul-de-sacs are hard to maintain, especially during the winter season, as they put a lot of pressure and wear and tear on the trucks and snow removal equipment. In the past, policy has leaned toward avoiding cul-de-sacs. Mr. Hill also stated his concern about the lots in the wetland areas and should be addressed before preliminary plat is approved. In regards to the future commercial development area, he stated that if there is a commercial development going to be there, it should be looked at in such a way as to serve the people of the subdivision. After talking with Jeff Leishman, Brigham City Associate Planner, Mr. Hill stated that it was his understanding that Mr. Mitchell does not have permission to have entry onto either SR-13 or SR-38 for the proposed commercial area and that issue needs to be addressed. There are also a number of substandard lots. On the road going out to 500 West is an old pond and in the Emergency Services comments that was a major concern. Mr. Hill commented that Mr. Leishman had told him Mr. Mitchell had been filling the pond without approval and the City had to have him cease and desist. In reviewing the Staff comments, there are numerous major concerns with the preliminary plat and those concerns need to be addressed before approval. Mr. Hill said he echoed the feelings of Paul Larsen, Economic Development Director, that this project should be a Planned Unit Development, which would be to Mr. Mitchell's advantage to turn out something better. He stated he would have to oppose this development if it came to City Council as it is currently designed. He encouraged the Planning Commission to not give approval and to continue this application to allow the Staff to work with Mr. Mitchell to consider a P.U.D. instead of a standard development.

Gordon Daly, resident of the Brigham Willows Subdivision, came forward. He stated that when he purchased his home it was stated in the paperwork that the golf course area would remain golf course. He echoed the concerns related by Mr. Hill in regards to traffic on 500 West. He is also concerned about the lack of green space. He understands there will be homes going in there but would like to see some green space added. He is hoping the leeway behind his home will not turn into a funnel for all the school kids to go through his yard. He is also concerned the proposed homes along the edge of the subdivision are the smallest lots and will devalue the bigger homes down there.

Ken Kennedy came forward. His concern is the small size of lots. There was an implied agreement from the City that the golf course would remain; at one time, it was going to be a development with nice big homes and now it is down to very little homes which will not be attracting the kind of development that Brigham City has had in the past. That area is one of the gateways to the city and he is concerned about very small homes making that gateway a very ugly entrance in 20-years, which is unacceptable to him. He said it is sad to see so many small homes and the regression that happens to the look of the city over the years with regards to numerous areas of small homes.

Nancy Kennedy came forward and stated that she is a member of the School Board. When she moved to Brigham City there were no pockets of low-income areas or areas that were seedy. The areas were controlled nice neighborhoods with no areas that should be avoided. She shared information on how the School Board determines which schools are chosen to be Title-1 schools. Those schools are determined by the amount of free and reduced lunches which are the low-income schools in the low-income areas. Only four schools, classified as Title-1, are allowed in Box Elder County; two of those four schools, Discovery and Foothill, are located in Brigham City, in the proposed subdivision area, which indicates that is an area of economic depression. Mrs. Kennedy commented that when they moved here, all the Thiokol engineer children went to Foothill School and now it is very much a low-income type school, as is Discovery. Her greatest concern is the very small homes that young families start out in, to build up some equity and move on. Those cracker box houses do not wear well and do not age well. Mrs. Kennedy does not want to see haphazard growth in Brigham City where it seems that developers, who are not residents of Brigham City, are trying to fit as many people as possible into as many lots. In regards to the increased traffic on 500 West, she felt it would be unforgivable to increase the traffic in front of Discovery School, which would increase the safety hazard to the children. Mrs. Kennedy commented that years ago there was a plan to bring in larger executive homes to Brigham City and this subdivision is not it. As to the proposed commercial area, she does not want the lights of a convenience store/gas station glaring through her front room and into her house. She stated that she supports growth in Brigham City and the fact that the schools need more students but she is not sure this subdivision is the way to do it.

Benson Astle came forward and stated he owns the property just north of the proposed subdivision. He said he did not get a notice regarding this action. Mr. Teuscher commented that the notice gets mailed to the property owner listed on the tax identification, record as recorded at the County, and since his property is not within Brigham City he would not have been noticed. Mr. Astle stated that he was also representing Cory Wilde and Duane Wilson. He stated that he has water

rights dating back to the 1800's. There is an old spring that has been filed on and there is two cubic feet of water that comes out of it year-round. His concern is to protect that spring so when that development does take place they will be guaranteed water for their livestock and irrigation needs. There is also another irrigation line that used to run through there. Mr. Mitchell made a trench along the highway and the north property line; so far it is working. They gave a letter to the City and to Mr. Mitchell to guarantee their water rights and to get the water to them. The spring starts just north of the old club house and before the City had it, it was an open ditch and the spring flowed into it. When the City bought it, they tiled it with cement tiles and left spatial openings so the spring water would go into it. That design works. What the property owners to the north want is to ensure that the water system is in place and stays there and they still have water. They also wanted to know what guarantee they would have when the developer is done. Mr. Teuscher replied that the design has to maintain the historical flow of the irrigation water through that property to the water right holders and the storm water has to remain segregated from the irrigation water. If the design does not maintain the historic flow then the design will have to be amended. Typically, the City would have the irrigation water owners sign-off on the system the developer puts in. The irrigation water holders would be responsible to maintain that system. There should be easements for accessibility to get to the irrigation water; owners will have access to it.

Lamont Nielsen, joint property owner, came forward and stated his concerns. One of the issues is the water. He said he has lived in his house for two years and no maintenance has been done on that ditch. If they have a small lot adjoining his lot, part of that property would be the ditch and he envisioned a problem with possible fencing and the ditch area becoming a no man's land between those adjoining properties. The weeds are already a problem and he would not like to see it get worse. Another concern is the high water table. He asked if the surface water, in this area, is going to be sealed off and if it will adversely affect the water table causing it to rise. He also asked if the new homes and the existing homes would be in jeopardy of the water table rising. Mr. Nielsen said he would like to see a water table study done to determine what can be done to maintain the water level. In regards to lot size, he would like to have input on the size of the lots and would like to see deed restrictions on what size and type of houses can be built.

Max Reeder, property owner to the west of the proposed subdivision, came forward and echoed the concerns already stated. Mr. Reeder said his property is within the City limits and he did not receive a notice. He is a director and an officer in the Brigham Big Field Irrigation and Drainage Company who owns water rights that originate on the property, flow through the property and are collected in the Smith ditch, which is on the east side of 500 West north of the property. Mr. Reeder's main point is to maintain that flow of water going into the ditch. Historically, the flow of subsurface water through the old golf course property has many springs and drains that flow through it. It took a lot of maintenance to make the golf course playable so it was not a mud bog. There were many feet of tile drain line installed in the golf course to lower the water table. His main point is the need to maintain the flow of water through that property. The construction of sewer lines will disrupt the natural subsurface flow of the water. The direction of the water flow is going to be to the northwest and he believes, for their protection, they need to require that any sewer under the road, that would intersect that northwest flow, have collars put on those sewer lines so the water flow, that may be taken in a different direction, can be detained until it finds its natural course back to the northwest so the water flow will be maintained. There are perforated drain lines between lots that will be collected under the roads and Mr. Reeder is concerned that they will empty into the ditch on the east side of 500 west and that it not be diverted elsewhere. He wanted to emphasize the importance of the surface water that is collected in the storm drains not be mixed with the irrigation water. He said Brigham City has been notorious for dumping their storm drain water into their irrigation ditches and they have an industrial revenue bond that is being used for the construction of a large detention pond which will take this water away from their lands and hopefully lower the water table. It will not add to the problems. The storm water and irrigation water need to remain segregated. Mr. Reeder stated he realizes that when this project is finished there will still be water being dumped into the ditches on Wilson Lane in the North Forty Subdivision but hopes the storm water collected on North Point Subdivision will somehow be interconnected with the North Forty storm system. Any diversion of water to the north will miss that system and will still run in the irrigation streams. They do not want water in the system that is polluted from going over oiled roads. He stated that he is not against the subdivision but thinks the Planning Commission needs to take extra ordinary care and caution to ensure that the subdivision is done properly and that the rights of the people are protected and given consideration.

Suzanne Rees echoed the comments of Mr. Reeder and Mr. Astle and said she is very aware of the water conditions there. She commented that they are very concerned that their water rights be maintained for irrigation and that it remain uncontaminated from any runoff water from the houses, asphalt or anything flowing into any of the irrigation ditches. When she was a County Commissioner, Mrs. Rees commented that she received regular calls from older people telling her that every time affordable housing is built it takes away their right to sell their houses. At a seminar she attended back east, Mrs. Rees said she learned that an over abundance of affordable housing is what creates slums. People purchase cute little new homes to live in for the first three to five years and then move on. Inside the city people can not afford to purchase the homes and fix them up. A brand new home can be purchased for the same price as it would cost to buy and fix up an older existing home so the older homes end up getting run down. Mrs. Rees also stated that she had visited with the leadership from ATK, Autoliv and several other major employers and she asked how many of them lived in Brigham City and Box Elder County; the answer was very few if any. The reason given was that Brigham City did not have the housing they liked. People will commute in from Logan and North Ogden before they will live here because there is a shortage of executive housing which is short-changing our community.

Doug Brown came forward and said that he thought this was about the third time that a proposal for this subdivision has been brought before the Planning Commission and a lot of the changes have been positive. Mr. Brown stated that he is originally from Washington State. He commented that when he moved here 20-years-ago the north entrance into the City, where the golf course used to be, was very attractive. Things have changed since they moved in. He believes that homes with small lots will not be very attractive for very long. He is concerned about the proposed future commercial development and the noise, lights and traffic it would bring to the neighborhood. He has made modifications to his home to make it something that can weather the normal passing of traffic and other things that happen. Mr. Brown stated that he has had many sleepless nights because of commercial businesses that have gone up in that area and believes we do not need another commercial development there. He is concerned about the speed on the road and people accelerating around that curve and how it may impact the safety of the future homeowners and thought that deeper lots might be helpful to those people. He thinks everything is so cramped and packed that there is no green beautiful invitation into town. His other concerns had been expressed by other individuals in the meeting.

Ed Tugaw, resident of Brigham Willows Subdivision, came forward. He said that currently behind every one of the homes, down to where the pond used to be, there is a ditch that continually runs with water. Adjacent to the ditch are drain fields that were put in when that subdivision was built. His concern is that Mr. Mitchell plans to cover that over; if it is covered what is going to be done with the water that is currently in the ditch and what is the plan with the interface with the existing drain fields. He commented that if the ditch is just covered over and the water comes in, many of the homeowners will have problems with water in their basements. Being in the real estate business, he commented that if Mr. Mitchell would come along with larger lots it would be a nice interface with the neighboring subdivision and the potential of selling those lots is very good.

MOTION: A motion was made by Mr. Handy to close the public hearing for application #2937. The motion was seconded by Commissioner Peterson and passed unanimously.

Scott Mitchell, developer, came forward. He stated that he appreciated the public comment and explained that this process has taken hundreds of hours with many professionals, including the City Staff, to get things right. Many of the questions and concerns expressed have been thoroughly addressed. He said he is spending a lot of money and that whatever needs to be done, should be done for everyone. In regards to the school, he wants to put more accesses into the subdivision but more public accesses will not be allowed. As far as the commercial property showing on the map, Mr. Mitchell said that was not supposed to be listed as commercial property but was to be maintained as a lot. He did say they were going to try to put neighborhood commercial in that area because the City is in the process of writing a new ordinance. He thought the citizens would like to have something like a service station in that area but if that is not what is wanted then he can put in more houses instead. He invited anyone that would like to talk about their issues to call him and he would be happy to discuss things with them.

Mr. Mitchell said he had seen the staff comments and was comfortable with working with staff to resolve the issues. A lot of the comments have not been adequately addressed. All the items on the Staff evaluation are very workable and he already has people working on some of the items. They will work on and address every one of the issues. Chairman Lane stated that his concern is the water issue because that property has a lot of water on it. Mr. Mitchell stated that area was not an ideal spot for any development because of the water issue. Because of the water issues, he opted to build slab-on-grade construction only. Slab-on-grade construction works very well in these types of neighborhoods. As far as the ground water and the runoff water is concerned, that water has been there for a long time and it won't really be changed. The only thing they are doing as far as the water on far north western end, every other lot has a drain field to ensure the ground water continues to be delivered to 500 West along the current route. As far as the runoff water from the roads and roofs, all of that will get collected into the storm detention ponds per law and code; controlled through an orifice flow. It does not leave the subdivision any differently than it would have during a normal rainstorm at the historical flow.

Mr. Handy asked Mr. Mitchell to address the concern of the size of the lots. Mr. Mitchell said that he has built a lot of homes in the subdivision and currently the least expensive home he has for sale down there is \$220,000 with 1,800 square feet. He sells homes as large as 3,400 square feet. The footprint on the lots are anywhere from 8,000 to 15,500 square feet per lot. The homes have between 1,700 to 1,800 square feet, on the smaller end, and up to 3,500 square feet. He said he has sold homes down there for \$350,000. He said he is proud of the neighborhoods he has created and that it takes a mix of young, old, rich and poor to make a good neighborhood. He stated that he sold 18 of his lots to Neighborhood Nonprofit and the City got a lot of praise for that project. He commented that he would love to build executive homes in that area but he is not that kind of developer.

Commissioner Peterson asked Mr. Mitchell if he had considered a P.U.D. (Planned Unit Development). Mr. Mitchell stated that he looked at P.U.D.'s and heard it said that was a slick way for developers to cheat the system and get around the rules, laws and regulations of the City; he said he didn't know if that was true or not. He said his development could be a P.U.D. but didn't know if Mr. Teuscher would want that to be a P.U.D. Mr. Mitchell said he is fine with the standard development. He said he is proud of the North Forty Subdivision and has had a lot of compliments from the people down there. He thinks the North Point Subdivision will be even better.

Commissioner Nielsen asked if a P-District would be appropriate in this situation to be able to control some of the aspects that are raising issues. Mr. Teuscher responded that there is existing r-1-8 zoning in this area and the Commission could ask Mr. Mitchell if he would do a P-district but it would still be Mr. Mitchell's choice to do so or not. A P.U.D. has a lot of advantages. It allows for higher densities and there would be smaller lots and more homes than a standard subdivision. There are one or two substandard lots that need to be changed. Commissioner Nielsen had a concern with cul-de-sacs. Mr. Teuscher said there are other designs that could be used. The two cul-de-sacs could be tied together as a 'T' on the main road going out. The other cul-de-sac could be stubbed into the property to the north so there would be no cul-de-sacs. Mr. Mitchell commented that there are a couple of designs that have already been approved through the City but they have been changed and came up with this design, which is a lot better. They had changed to this design as to not have straight through streets to discourage speeding and slow the flow of traffic.

Commissioner Nielsen stated that, due to the number of comments and concerns from the Staff and public, he would like to see all those issues resolved to the satisfaction of the staff and the developer before a recommendation is made. He recommended continuing this application to allow Staff and the developer to work together to resolve the issues and bring back answers to the things that require resolution before proceeding.

Mr. Mitchell stated that in regards to the wetlands and the ditch, people will no longer be able to bring their green waste over to his property anymore because it will be someone's lot. They will not be touching that ditch or impeding the flow of water through it. There are three in the wetland areas, two of which have been identified on the plat. He is meeting with his consultant to update that and will be on the next updated version. Commissioner Lane suggested giving Mr. Mitchell an idea of what the Commission is expecting such as what the ditch in the wetland area, that needs to be left open, is going to become. Mr. Mitchell said it is a complex situation and will be worked out with the engineers in the way that the law will allow. Mr. Teuscher informed Mr. Mitchell that he needed to get any changes to Staff by the filing deadline so Staff can get the information out to the Planning Commission.

Commissioner Peterson commented that the open irrigation ditches are a danger to small children and that issue needs to be looked at. Mr. Mitchell replied that they put in a really nice system in the North Forty Subdivision with manholes and rerouted it; in this case, they already have the location and design that they are proposing. It will be a secure system and the water will get there faster. He also said most of the ditches have been there for a long time and will be left just the way they are. Mr. Teuscher commented that some of the ditches are considered potential wetlands and will need to stay open. Commissioner Peterson also commented that with nearly 100 homes, that would bring about 400 to 800 people and she is concerned that there is no open space or parks and would like Mr. Mitchell to consider including something like that. Mr. Mitchell replied that it is not that he does not want to donate the land and provide a park, it is that the City does not want to maintain it. There are a lot of parks in the city and it is a huge expense to maintain them. Putting in a park in every new subdivision would be cost prohibitive.

MOTION: A motion was made by Commissioner Nielsen to continue application #2937 until the August 21, 2007 meeting during which time the various comments from Staff, Engineering and the public hearing be addressed between the applicant, developer and the Staff. The motion was seconded by Mr. Handy and passed unanimously.

PUBLIC INPUT:

Lamont Nielsen came forward and commented that he lives two houses from 900 North and by the time traffic gets by the road that goes into the Brigham Willows Subdivision those vehicles are accelerating at or past the speed limit. His neighbor's foundation shook so much from the traffic that he has a leak in his basement. He would like to see the Commission analyze the traffic pattern there and look at making a recommendation to lower the speed limit to 40 miles-per-hour to slow down traffic.

Doug Brown came forward and said that after listening to Mr. Mitchell's comments, it sounded to him like the only thing Mr. Mitchell is worried about is the water issue and making sure things are right there; all the other issues and comments that people had were basically brushed off. It sounds to him like there will not be any change or resolution to any of the other things that were brought up. Mr. Handy commented that many of the issues that were discussed in the meeting were also brought up in the Staff review and Mr. Mitchell will have to address those before any approval. Mr. Teuscher said that, typically, in a public hearing the Commissioners do not respond; they want to hear what the public has to say. They are not ignoring the public, they are listening to all comment and those comments are considered. Mr. Mitchell must address the concerns. Mr. Brown stated that it is obvious that public comment has made a difference in the past because this application is much different than before. The concerns he heard tonight were very well expressed and quite valid.

Benson Astle came forward and said that along the fence on the north end bordering his property is the County. He wants to see what will be brought up in the future on the fence. There is an existing chain-link fence that was there when the golf course was in existence. Mr. Teuscher suggested that Mr. Mitchell would be asked to upgrade that and keep it in place.

DISCUSSION:

MOTION: A motion was made by Commissioner Nielsen to adjourn. The motion was seconded by Commissioner Peterson and passed unanimously.

The meeting adjourned at 7:54 p.m.

This certifies that the regular meeting minutes of July 03, 2007 are a true and accurate copy as approved by the Planning Commission on August 07, 2007.

Signed: _____

Jeffery R. Leishman, Secretary